Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Criteria 2: This citation seems too general to subject an individual to outpatient commitment. A better definition for the population of interest may be those with “serious mental illness” as defined in COMAR 10.21.17.02.76. This item might read “The individual’s condition meets the definition of “serious mental illness” as detailed in COMAR 10.21.17.02.76.	The Department did not accept this recommendation. The definition of "serious mental illness" in COMAR 10.21.17.02.76 is too narrow and would exclude a number of people who would otherwise qualify for an outpatient civil commitment program. Instead, the Department used the term "mental disorder" as currently defined in Health - General § 10-101.	Tim Santoni
Criteria 4: I believe the criteria list is usable but (4) should be removed.	The Department did not accept this recommendation. The purpose of criteria #4 is to help ensure that an outpatient civil commitment order is not too far reaching. Generally, the Department supports an individual's right to make decisions about his/her medical treatment. An individual should be subject to an outpatient civil commitment order only if his/her nonadherence to outpatient treatment is likely to result in the individual presenting a danger to the life or safety of the individual or others.	Steven Gray
Criteria 4: What about the consumer who refuses treatment, lives with an elderly parent who has tolerated psychotic behaviors for years without accessing help. The parent dies and the individual is now left alone to fend for him/herself, but without a “history” of hospitalization? Can the 2 hospitalizations within 48 months criterion be disregarded in some circumstances?	No. In order to meet the criteria for outpatient civil commitment an individual would of had to been hospitalized involuntarily at least twice within 48 months.	Bette Stewart

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Criteria 4: A few aspects of DHMH's "2 in 48 months" proposal are more restrictive than similar criteria in other states. Specifically: no existing state OCC law requires qualifying past hospitalizations to have been "involuntary," as the DHMH proposal does. Other states typically allow for a broader range of facilities in which the person may have received past treatment. Other states typically allow for exclusion from the "lookback period" of time the person spent hospitalized or incarcerated.	The Department considered this comment and examined criteria used in a number of states. The decision was made to reject this recommendation due to concerns that broadening the criteria would make it more difficult for the program to target those most in need for outpatient civil commitment. The bill requires the Department to submit annual reports to the General Assembly on the implementation of the outpatient civil commitment program. If this review uncovers a need to expand the criteria, the Department would support such action. It is important to note that there are states, including Florida, that have a similar requirement. (See Fla. Stat. §394.4655(e)(1)).	NAMI Maryland
Criteria 4: This criterion should be changed from two "involuntary admissions" in 48 months to two civil commitments in 48 months.	The Department did not accept this recommendation. The existing statute uses the term "involuntary admissions." Our goal is to remain consistent, so the Department will use "involuntary admission" instead of "civil commitment."	Maryland Psychiatric Society and the Suburban Maryland Psychiatric Society

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Criterion 5: This criterion would dramatically reduce the number of people who could be served by OCC. A good model here is California's "Laura's Law," which requires a showing that voluntary services have been offered in the past, but allows OCC based on the person's continued "fail [ure] to engage in treatment." Laura's Law does not require a current refusal to accept voluntary services. The distinction is critical.	The Department considered this comment and examined criteria used in a number of states. The decision was made to modify this criteria to state: "The individual has been offered the opportunity to participate in recommended treatment but either declines to do so or fails to adhere to treatment recommendations." If an individual is willing to accept voluntary services, then an outpatient civil commitment order is not appropropriate. Such an order should be obtained only if an individual refussed to accept or adhere to voluntary services. It is important to note that Laura's Law has a similar requirement that the person has been offered an opportunity to voluntarily participate in treatment. See Cal. Welf. & Inst. Code § 5346(a)(5).	NAMI Maryland
Criteria 8: Using the term "feasible" will likely increase the racial and geographic disparities among civilly committed outpatients, as people in economically and geographically impoverished areas lack services available in other areas, making access to them less feasible (see 2014 HB1267, Section 1(a)(2)(iii));	The Department accepts this recommendation. The term feasible will be removed.	Maryland Psychiatric Society and the Suburban Maryland Psychiatric Society
Criteria 8: Using the word "feasible" will likely increase the imbalance of parity between public and private payers, as members of private payers that lack similar coverage for rehabilitative, residential, and ACT services, will find that these alternatives are appropriate, but not available to them and thus are not feasible (see 2014 HB1267, Section 1(a)(2)(vi));	The Department accepts this recommendation. The term feasible will be removed.	Maryland Psychiatric Society and the Suburban Maryland Psychiatric Society

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Criteria 8: The term “least restrictive” is poorly defined and may be comprised of many components including liberty, time, and degree of invasiveness.	The Department did not accept this recommendation. The term "least restrictive" is used throughout the current Maryland statute related to involuntary inpatient admissions. Using this term promotes consistency. This term is also used in California (See Cal. Welf. & Inst. Code § 5346(a)(7)) and Florida (See Fla. Stat. §394.5655(1)(i)).	Maryland Psychiatric Society and the Suburban Maryland Psychiatric Society
If the intention is to target individuals whose “mental illness”, conditions that lead to hospitalization in State facilities, then it is essential to exclude those with a primary substance use disorder and a mental illness which is not severe and persistent from those on whom a petition may be filed.	Only individuals who have a mental disorder and have been involuntarily admitted to an inpatient facility (at least two times over 48 months) will meet the minimum criteria for outpatient civil commitment under this bill. All others will be excluded.	Tim Santoni
Comments on Mandated Services		
There should be estimates of the costs to calculate what the total expenditures may be.	The final report submitted to the Maryland General Assembly will include cost estimates.	Nevett Steele, Jr.
What about the somatic needs of individuals not receiving mental health services prior to their civil commitment, should there be a nurse on the team to assess for illnesses that shorten the lives of individuals with SMI by 25 years of their peers?	An outpatient civil commitment program must focus on improving adherence to mental health treatment. However, the legislation will provide the flexibility to tailor treatment plans to meet the individual needs of the patient.	Bette Stewart
Because such a high percentage of the population at issue will have co-occurring SUD needs, and because many may have both drug and alcohol issues, it may be more emphatic to move the qualifying phrase to the end of this clause and to state: “alcohol and/or substance abuse treatment…”	The Department accepts this recommendation. 10-934(b)(6) will be changed to: COUNSELING, PERIODIC TESTS FOR THE PRESENCE OF ALCOHOL, ILLEGAL DRUGS, OR PRESCRIPTION DRUGS, OR ALCOHOL OR SUBSTANCE USE DISORDER TREATMENT IF AN INDIVIDUAL HAS A HISTORY OF A SUBSTANCE USE DISORDER.	Tim Santoni

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
I believe that there should be housing and transportation for persons committed as outpatients. They should have these services if they are to succeed. Those costs should be considered.	Under the current proposal, a wide array of services, including housing and transportion, may be included in the treatment plan based on the needs of the individual.	Nevett Steele, Jr.
Specific language be developed to ensure that private payers provide the same level of rehabilitative, residential, and ACT services that are provided by public payers.	The Department did not accept this recommendation. If a treatment plan includes services that are not covered an individual's private insurance, such coverage will be provided by funds in the Department's outpatient civil commitment program.	Maryland Psychiatric Society and the Suburban Maryland Psychiatric Society
If a mandated outpatient treatment program is to be developed, this be a required benefit covered by private payers in the same manner that public payers cover the benefit.	The Department did not accept this recommendation. If a treatment plan includes services that are not covered an individual's private insurance, such coverage will be provided by funds within the Department's outpatient civil commitment program.	Maryland Psychiatric Society and the Suburban Maryland Psychiatric Society
I think there should be explicit attention to assigning individuals to a model that includes ACT like teams that are augmented with case rates to allow for highly flexible and individualized treatments and that include outcomes tied to incentives and risk. It is important to examine the results of the Baltimore Capitation Project as originally designed. They had an enormous success rate, without a mandate, of treating extremely heavy users in the community and dramatically reducing inpatient days while increasing positive outcomes.	The Department accepts this recommendation. These issues will continue to be explored by the Department if legislation passes establishing an outpatient civil commitment program in Maryland.	Deborah Agus, JD

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Intensive case management, as currently defined, may be insufficient to meet the needs of this population. Current reimbursement is limited to five visits per month. This may be inadequate for the needs of this population and the Department may want to use a different term or some modifier to indicate "a level of intensive case management, more intense than that currently reimbursed in the public behavioral health system"	This is not an exhaustive list of available services. Additional services may be provided based on the needs of the individual.	Tim Santoni
Comments on Civil Liberties		
Regarding the right to cross-examine adverse witnesses: If the person does not have the capacity to care for themselves, and their lawyer is only addressing the person's rights, then doesn't this put us back where we started? If two medical professionals, trained to assess capacity, are over ruled by the person's "rights", has civil commitment just added another layer of barriers to treatment?	The Department did not accept this recommendation. An individual who is the subject of a petion is entitled to a hearing and should have the ability to cross examine adverse witnesses.	Bette Stewart
Regarding non-adherance to treatment: What is Mental Health Service Providers' responsibility to work with the insurance company's refusal to pay for services, or connect the individual with MA to receive this level of service?	This is an issue that the Department will continue to explore should legislation pass to establish an outpatient civil commitment program in Maryland.	Bette Stewart
Regarding non-adherance to treatment: How will the mental health service provider collaborate with the Correctional Services to guarantee cooperation for mental health services (medications) are continued during incarceration?	Under the current proposal, an outpatient civil commitment order would no longer be in effect if the subject of the order is incarcerated.	Bette Stewart

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Regarding the right to receive notice of the Department's petition: Should not the subject of the petition be informed of the allegations that led to the filing of the petition as well as the identity of the initial requestor of the petition? While this is proposed as an executive process, those charged in the judicial system have those rights.	Under the current proposal, the subject of the petition will receive notice of the petition.	Tim Santoni
Should not "and the right, to the degree possible, to have any conditions and treatments stated in a petitioner's advanced directive for mental health treatment to be honored and included in the treatment plan order" be included?	The Department accepts this recommendation. That language will be added to the legislation.	Tim Santoni
Comments on Reporting		
An individuals living situation pre and post program participation - Is the interest in living situation or whether or not the individual was homeless at these points in time?	This would capture whether an individual is homeless. However, it is also the Department's intent to capture whether an individual is able to live more independently.	Tim Santoni
'Came in contact' is disturbingly general. Does this include those who may have been taken to a shelter because they were on the street and it was a bitterly cold evening? Does it include individuals who could be possible witnesses to a crime whom the police question? Or those against whom a crime may have been committed and who therefore had to approach the police to report the crime?	The report submitted by the Department will detail the type of contact between the individual and local law enforcement.	Tim Santoni
Regarding medication outcomes: While I am not a medical professional, I am not certain how to define or measure "medication outcomes". How does one know the changes which were cause by medication as opposed to those caused by other factors?	Data on medication outcomes will be provided by the service provider. The service provider will have primary responsibility for providing treatment to the subject of the order and can reasonably determine and measure medication outcomes.	Tim Santoni

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Regarding enforcement mechanisms: Given the discussion regarding the power (or lack thereof) of a finding from the OAH, I am uncertain what the "enforcement mechanisms" could be invoked much less how to measure their outcomes.	The proposal requires the Departnemt to submit an annual report to the General Assembly on the outpatient civil commitment program. One of the reportable measures is the extent to which enforcement mechanisms are used and the outcome of the enforcement mechanisms. Enforcement mechanisms include efforts by service providers to reengage patients. In addition, if there is sufficient evidence to suggest the subject of the petition may meet criteria for inpatient admission, an individual may be transported to a facility for emergency evaluation under Health-General 10-622.	Tim Santoni
Missing from the list is the number of individuals found subject to outpatient commitment whose insurance was insufficient or unwilling to cover the costs of mandated treatment. Lack of cooperation on the part of private insurers and Medicare will have an impact on the effectiveness of the program.	The lack of health care coverage will not impact access to treatment under an outpatient civil commitment program. Unless funding is available, an individual will not be subject to an order.	Tim Santoni
Regarding program evaluation: Given the importance of this provision, it seems essential that the elements of cost, process measures, and outcomes all be well defined if not in the law itself then in a planned process. While the suggestion of using an external entity to collect and analyze the data, such a process would seem expensive and duplicative. A transparent process of data collection with an advisory committee overseeing the results on a regular basis may be a compromise which would assure transparency while maintaining efficiency.	The Department of Legislative Services - the state entity that conducts program evaluations - would conduct an evaluation of the outpatient civil commitment program using existing resources. Therefore, additional funding would not be needed.	Tim Santoni
The reporting described in the last paragraph should be monthly.	The Department will develop policies around reporting requirements for providers, including frequency of reporting.	Nevett Steele, Jr.

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Other Comments		
Please clarify who will be responsible for contacting the person to determine if they are willing to voluntarily participate in mental health treatment.	The Department, in conjuction with the appropriate treatment provider will ensure that treatment is offered voluntarily.	Bette Stewart
Will this emergency evaluation have the same 5-day expiration as the current emergency evaluation process if the person is not picked up within that timeframe?	The emergency evaluation process, set forth under HG 10-624(a)(1), provides for a five day deadline when the petition is endorsed by the court. However, there is no five day deadline when the petition is signed by a qualifying health care provider, health officer, or peace officer. Similiarly, the emergency evaluation process under this bill would require the petition to be signed by the Secretary, or the Secretary's designee, and there is no five day deadline.	Bette Stewart
Regarding the examination by two licensed mental health treatment providers: How are the service providers identified and when are they engaged to begin work with the person? It is not clear what the timeframe is for the treatment plan to be prepared, and in the meantime where is the person being held?	In response to other comments received, the Department has amended this section. An examination by one licensed mental health treatment provider is required before the Secretary may file a petition for outpatient civil commitment. The licensed mental health treatment provider will be designated by the Secretary, or the Secretary's designee.	Bette Stewart
Petitions: The persons described in footnote 1 on page 2 should have the right to petition directly to the OAH and not have to await the outcome of a preliminary investigation by the Secretary’s office. The people in categories (1) and (2) were among the ardent supporters of the proposal.	The proposal was developed with a single petitioning entity in order to adderss racial and geographic disparities in program implementation.	Nevett Steele, Jr.

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
There is nothing in the proposal to guide the process addressing an individual's non-compliance with the court order. This is obviously a vital aspect of any OCC program, and we request an opportunity to learn and comment upon what DHMH has in mind for this part of its proposal.	Under this proposal, the process for addressing noncompliance will be similiar to that under California and New York's outpatient civil commitment programs. It will be the responsibility of the service provider to attempt to reengage non-compliant patients in treatment. However, if there is reason to believe that the non-compliant patient may be in need of involuntary admission to a hospital, the individual may be subject to a petition for emergency evaluation in accordance with HG § 10-622.	NAMI Maryland
Regarding investigations: It seems as if this would be more appropriate as a two step process, the first being a finding of whether or not the individual should be subject to outpatient commitment, and, if that finding is positive, then a second hearing that details the treatment plan for the course of the commitment; there is no mention of a "service provider" prior to this point, and it seems premature to put together a treatment plan prior to a finding having been made.	Under this proposal, the Department will submit a petition to the Office of Administrative Hearings. The recommended treatment plan will be included as part of the petition. OAH will hold a hearing and determine whether the individual meets the criteria for outpatient civil commitment. If OAH finds that the individual meets the criteria, then OAH will determine whether the proposed treatment plan meets the individual's treatment needs. OAH will not approve a treatment plan in the absence of finding that the individual meets the criteria for outpatient civil commitment.	Tim Santoni
Regarding the petitioning process: We believe that any person with a legitimate interest in the individual should be eligible to request a petition. However, at a very minimum, guardians and health care agents should be added to the list.	The Department will add guardians to the list of entities that may request an investigaton. However, health care agents were not added to this list. Once appointed, a guardian is obligated to file an annual report with the court. The report is meant to supervise the guardian's actions and to determine whether the guardianship should be modified or terminated. In comparison, health care agents are not supervised.	NAMI Maryland

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
NAMI Maryland believes that families should be involved in the ongoing mental health treatment planning with the individual. For this reason, we recommend that the OCC proposal include services to the family of the individual similar to those outlined in Laura's Law	The Department agrees that families may play a roll in an individual's ongoing mental health treatment. However, the Department did not accept this recommendation as this proposal only addressed services for the individual.	NAMI Maryland
We suggest, that where possible, notification of an OCC request, an OCC petition, and an OCC hearing be sent to the individuals listed in Health-General §10–632. Additionally, we recommend that the individual who files the OCC request be notified that an OCC petition has been filed and when the hearing has been scheduled. Families and guardians are generally the most involved in the individuals past history with service providers, ER, outpatient, inpatient, corrections, homelessness, etc., and can often provide a more complete and lengthy history than any one examiner or service provider. There are several other requirements in Kendra's law relevant to individuals that should be notified during the OCC process.	The Department did not accept this recommendation as the proposal does not address specific hearing procedures.	NAMI Maryland

Appendix 1 - Comments on Outpatient Civil Commitment Proposal and DHMH Response		
Comments on criteria	**DHMH Response**	**Submitted by**
Since Maryland already allows testimony be given by the parent, guardian, or next of kin of an individual involuntarily admitted, we recommend that you include this requirement in the draft OCC proposal. Allowing these individuals to testify should not be dependent on being called as a witness or questioned by the person presenting the case for the petitioner. Family members have a compelling interest in requesting appropriate medical treatment be provided to the individual. While the vast majority of individuals coping with mental illness are not violent, there are cases that the safety of a family member is a concern. Involuntary evaluation and an OCC order is an effective way that the individual suffering with a severe mental illness can get needed treatment, which can help safeguard the family member from continued violent behavior.	The Department did not accept this recommendation as the proposal does not address specific hearing procedures.	NAMI Maryland
We strongly suggest that the OCC proposal include provisions for mandatory training, so that all professionals involved in the process are educated in how to carry out the requirements of the new law, including, judges, defense attorneys (public defenders, if applicable), mental health treatment providers, law enforcement officials, corrections officers, and homeless providers.	The Department did not accept this proposal as the workgroup did not examine training provisions needed for an outpatient civil commitment program.	NAMI Maryland